

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6532

BILL NUMBER: SB 154

DATE PREPARED: Apr 5, 2001

BILL AMENDED: Apr 5, 2001

SUBJECT: Timber Regulation.

FISCAL ANALYST: Bernadette Bartlett

PHONE NUMBER: 232-9586

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that a person who, after an initial violation, knowingly or intentionally commits a subsequent unrelated violation of buying timber without first securing a registration or refusing to allow the inspection of the person's records, commits a Class D felony. The bill also provides that a person seeking a preliminary injunction or restraining order to prevent wrongful cutting of timber on the person's property is relieved of the requirement of posting bond or other security, unless the person had a contract for cutting or sale of timber. Trees or timber removed by a local airport authority or local aviation commissioners are considered personal property for sale or severance. (The introduced version of this bill was prepared by the Natural Resources Study Committee.)

Effective Date: July 1, 2001.

Explanation of State Expenditures: (Revised) A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: (Revised) The State could receive a minimal amount of Gross Retail (Sales) tax revenue if it were determined the sale of the trees was subject to sales tax. It is expected that the sale would be taxable since the sale would constitute an activity beyond the scope of normal government operations of the authority. The amount of sales tax collected would depend on the number of trees sold and the price of the sale.

Gross Retail (Sales) and Use taxes are deposited in the State General Fund (59.03%), the Property Tax Replacement Fund (40%), the Public Mass Transportation Fund (0.76%), the Commuter Rail Service Fund (0.17%), and the Industrial Rail Service Loan Fund (0.04%).

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Natural Resources and the Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies, and local airport authorities.

Information Sources: Indiana Sheriffs Association, Department of Correction.